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October 26, 2015

VIA ECF FILING

Honorable Jesse M. Furman  
United States District Judge, S.D.N.Y.  
40 Foley Square, Courtroom 1105  
New York, NY 10007

**Re: United States v. Wells Fargo Bank, 12 Civ. 7527 (JMF) (JCF)**

Dear Judge Furman:

We write as counsel for Mr. Lofrano to make three points in reply to the submission of the United States of America (“the Government”), ECF No. 301 (Oct. 21, 2015), in response to our October 7, 2015 motion to amend and certify for interlocutory appeal the Court’s September 22, 2015 Order (the “Motion,” ECF No. 296-97).

First, Mr. Lofrano has no interest in delay. It is his name that is under a cloud as a result of this lawsuit. As explained in our memorandum of law, we believe that certification will advance the ultimate termination of the litigation and ensure that a trial take place on all relevant issues. ECF No. 297 at 10-12.

Second, the Court can entertain motions for summary judgment while an appeal is pending. If such a motion is granted, that will terminate the litigation (at least pending appeal).

Third, to address the Government’s concerns and if the Court so desires, Mr. Lofrano is prepared to request an expedited appeal in the Second Circuit.<sup>1</sup>

<sup>1</sup> Wells Fargo expresses its support for the September 22 Order in its response. ECF No. 304 at 1 (Oct. 26, 2015). We disagree with Wells Fargo for the reasons stated in Mr. Lofrano’s memorandum of law. More importantly, neither Wells Fargo nor the Government deny that each of the 1292(b) factors is satisfied here.

For the reasons set forth here and in Mr. Lofrano's memorandum of law in support of the Motion, we respectfully request that the Court amend and certify for interlocutory appeal the September 22, 2015 Order.

Respectfully submitted,

*/s/ Lewis J. Liman*

Lewis J. Liman